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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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EXAMINER

WARTALOWICZ, PAUL A

ART UNIT

PAPER NUMBER

1754

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | | |
|------------------------------|------------------------|--|----------------------|--|
| Office Action Summary | Application No. | | Applicant(s) | |
| | 10/773,428 | | MOHAMMED, AL SAID M. | |
| | Examiner | | Art Unit | |
| | Paul A. Wartalowicz | | 1754 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendments

Examiner's objections and rejections under 35 U.S.C. 112 in Office Action dated August 5, 2005 have been withdrawn in accordance with Applicant's amendments dated November 14, 2005.

Response to Arguments

Applicant's arguments, see pages 6-9, filed on November 14, 2005, with respect to the rejection(s) of claim(s) 1-3 under 35 U.S.C. 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Carter (U.S. 6729758).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bonnett ('554) in view of Carter ('758) and Petriekis et al. ('636).

Bonnet teaches a circular tablecloth (fig 3, #7) convertible to a garbage bag (col. 1, lines 6,12), comprising a flexible panel (col. 1, line 8) closing over a table top (fig 1, #2) and at least two handles attached to said flexible panel proximate said edge (fig 3, #3) whereby tablecloth converts into a garbage bag (fig 6) by pulling on the draw string cinch system (fig 3, #3), said garbage bag being carried by said handles to a place for disposal.

Bonnet fails to teach an expandable peripheral edge comprising an elastic band attached to and surrounding said peripheral edge.

Bilotti, however, teaches a circular table cover (fig 3, #10) comprising an expandable peripheral edge further comprising an elastic band (fig 3, #14) that stretches when placed over a table top and contracts to it's original shape when in abutment with the table top and providing a tight fit of the table cover over the table top (col. 1, lines 25-31).

Thus, it would have been obvious to one of ordinary skill in the art to have substituted a draw string on the peripheral edge of the tablecloth with an elastic strip on the peripheral edge of the tablecloth as both provide a means to cover the table and convert to a garbage bag.

Therefore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided an elastic band in the table cover of Bonnett in order to provide a tight fit over the table top as taught by Bilotti.

Bonnett teach a tablecloth disposal system as described above. Bonnett fails to teach a flexible panel comprising a two-ply polymeric sheet further comprising polyvinyl or polyester.

Petrikis et al. however, teaches a two-ply bag (container, col. 5, lines 54-57) that comprises a polymeric material that has sufficient flexibility (col. 5, line 43) such as polyester or polyvinyl chloride (col. 5, line 52) for the purpose of having a flexible bag.

Therefore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided a two-ply bag comprising polyester or polyvinyl chloride in Bonnett and Billotti in order to have the flexible bag as taught by Petrikis et al. since these materials are well known in the art for flexibility.

Bonnett also fails to teach as to the limitations wherein each of said at least two spaced handles comprising a polymeric strip having a pair of attachment end portions and a central grasping portion, each attachment end portion of each said handle being heat welded to said expandable peripheral edge, thereby fixedly attaching said at least two handles to said expandable peripheral edge.

Carter, however, teaches a flexible, collapsible bag (col. 1, lines 62-64) wherein nylon handles (inherently teach attachment end portions and a central grasping portion,

col. 1, lines 62-66) are attached for the purpose of providing ease of transporting the contents (col. 1, lines 28-31).

Therefore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to provide handles in Bonnett that are attached to the peripheral edge of the bag in order to provide ease of transporting the contents (col. 1, lines 28-31) as taught by Carter.

In claim 1, it appears that the instantly claimed product by process is the same as that which is claimed (handles comprising a polymeric strip having a pair of attachment end portions and a central grasping portion, each attachment end portion of each said handle being heat welded to said expandable peripheral edge, thereby fixedly attaching said at least two handles to said expandable peripheral edge). When the examiner has found a substantially similar product as in the applied prior art, the burden of proof is shifted to the applicant to establish that their product is patentably distinct and not the examiner to show the same process as making. *In re Brown*, 173 USPQ 685 and *In re Fessman*, 180 USPQ 324.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. Wartalowicz whose telephone number is (571) 272-5957. The examiner can normally be reached on 8:30-6 M-Th and 8:30-5 on Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on (571) 272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Paul Wartalowicz
January 20, 2006



COLLEEN P. COOKE
PRIMARY EXAMINER